1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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DRAFT PROTOCOL TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS TO ASSURE NON-NUCLEAR-WEAPON STATES PARTIES AGAINST THE USE OR THREAT OF USE OF NUCLEAR WEAPONS

Submitted by Kenya, Myanmar, Nigeria and the Sudan

1. Since the dawn of the nuclear age, non-nuclear-weapon States have expressed concern for their security. They have consistently called for the conclusion of a legally binding instrument, providing comprehensive and unconditional security assurances for non-nuclear-weapon States against the use or threat of use of nuclear weapons. To secure such security assurances and to conclude an international legal instrument thereon is a legitimate aspiration of non-nuclear-weapon States.

2. Paragraph 20 of the Final Document of the Tenth Special Session of the General Assembly (resolution S-10/2), the first special session devoted to disarmament, underscores the importance of effective measures of nuclear disarmament and prevention of nuclear war as deserving the highest priority among measures of arms limitation and disarmament. In paragraphs 32 and 59 of the same document the Assembly also reaffirms the need for effective arrangements, as appropriate, to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, which could strengthen the security of those States and international peace and security.

3. Following the demise of the cold war, positive changes have taken place in the international political climate. As a consequence, the world has witnessed the conclusion of a number of significant arms limitation and disarmament agreements. The precedents of the conclusion of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction and the Comprehensive Nuclear-Test-Ban Treaty, the beginning of the process of nuclear disarmament by the United States of America and the Russian Federation, and the measures taken by other former Soviet Republics in the framework of complete nuclear disarmament demonstrate clearly that nuclear disarmament is not only within the realm of practical implementation, but it is also achievable in the foreseeable future, if only the political will exists. Apparently, less reliance is now being placed by nuclear-weapon States on the role of nuclear weapons. This process of de-emphasizing the role of nuclear weapons should be continued and carried forward as a significant step towards the complete elimination of nuclear weapons.

4. The Movement of Non-Aligned Countries on many occasions has reiterated the belief that, in order to be effective and lasting, the approach towards international security should be non-discriminatory and balanced and should seek security for all through total nuclear disarmament within a time-bound framework, elimination of all weapons of mass destruction and progressive measures of reduction of conventional arms. The Movement of Non-Aligned Countries also stressed that security assurances to non-nuclear-weapon States can contribute positively to addressing some of the dangers inherent in the presence of nuclear weapons and has urged the Conference on Disarmament to negotiate, as a matter of priority, an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances and to undertake negotiations for the complete elimination of all nuclear weapons within a time-bound framework.

5. The delegations of Kenya, Myanmar, Nigeria and the Sudan attach the utmost importance to the question of security assurances for non-nuclear-weapon States. It is their conviction that the only completely effective security assurances against the use or threat of use of nuclear weapons lie in the prohibition of the use of nuclear weapons, nuclear disarmament and complete elimination of these weapons. Existence of nuclear weapons in itself constitutes a threat to international security and a factor which encourages proliferation. For this reason, and pending the achievement of the complete elimination of nuclear weapons, it is imperative for the international community to develop effective measures and arrangements to assure non-nuclear-weapon States against these weapons, and to elaborate measures and arrangements which can contribute positively towards achieving the most effective regime of non-proliferation of nuclear weapons in all its aspects.

6. These States parties to the Treaty on the Non-Proliferation of Nuclear Weapons believe that international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons should cover both negative and positive security assurances.

7. They consider that, by renouncing voluntarily their nuclear option, non-nuclear-weapon States parties to the Treaty have a legitimate right to receive legally binding assurances from the nuclear-weapon States not to use or threaten to use nuclear weapons against them.

8. In this context, these States parties consider that the unilateral declarations made by the four nuclear-weapon States, and Security Council resolutions 255 (1968) of 19 June 1968 and 984 (1995) of 4 November 1995 on security assurances have not fulfilled the requirements of non-nuclear-weapon States.

9. In May 1995, the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons adopted decisions on strengthening the review process for the Treaty, on principles and objectives for nuclear non-proliferation and disarmament and on the extension of the Treaty, and a resolution on the Middle East.[1] In the decision on principles and objectives, the Conference, inter alia, called upon the States parties to consider further steps on security assurances that could take the form of an internationally legally binding instrument.

10. Accordingly, the delegations of Kenya, Myanmar, Nigeria and the Sudan consider that the time is now opportune to negotiate and conclude a protocol to the Treaty, providing comprehensive and unconditional security assurances for non-nuclear-weapon States.

11. These States parties, therefore, propose a draft protocol to the Treaty on security assurances for non-nuclear-weapon States. The text of the protocol is annexed hereto.

12. These States parties are of the view that all States parties to the Treaty must take effective measures for nuclear disarmament, a ban on fissile materials, conclusion of an international legally binding instrument providing comprehensive and unconditional security assurances for non-nuclear-weapon States, promotion of the peaceful uses of nuclear energy and universal adherence to the Treaty. With regard to the question of security assurances for non-nuclear-weapon States, these States parties urge the Preparatory Committee to address this issue in a substantive manner with a view to concluding a protocol to the Treaty, not later than the time of the convening of the 2000 Review Conference. The draft protocol, proposed by the States parties, will provide a basis for negotiations at the Conference or at the Preparatory Committee meetings.

13. These States parties firmly believe that conclusions of such a protocol on security assurances constitute an essential element of an effective regime of the Treaty, will strengthen the Treaty and will contribute to the success of the 2000 Review Conference.

Notes

[1] 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, Part I (NPT/CONF.1995/32 (Part I)), annex.

ANNEX

Draft protocol on security assurances to the Treaty on the Non-Proliferation of Nuclear Weapons

The States parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Convinced that nuclear weapons pose the greatest threat to mankind and to the survival of civilization,

Reaffirming the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,

Convinced that the only effective and credible guarantee against the use or threat of use of nuclear weapons lies in the total elimination of these weapons,

Considering that, until nuclear disarmament is achieved on a universal basis, it is imperative for the international community to devise effective measures to ensure the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons,

Convinced that the principle of undiminished security for all States requires effective measures of such legally binding security assurances for non-nuclear-weapon States,

Considering that, by renouncing voluntarily their nuclear option, non-nuclear-weapon States parties to the Treaty have the legitimate right to receive legally binding assurances from the nuclear-weapon States not to use or threaten to use nuclear weapons against them,

Recalling the three decisions and one resolution adopted by the 1995 Review and Extension Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,[a] including the decision on the principles and objectives for nuclear non-proliferation and disarmament, which, inter alia, called upon the States parties to take further steps on security assurances that could take the form of an internationally legally binding instrument,

Reaffirming their undertaking to observe strictly the provisions of the Treaty on the Non-Proliferation of Nuclear Weapons, to which the present protocol is an annex, and their determination to achieve universal adherence to the Treaty by all States,

Bearing in mind the resolutions of the General Assembly and the Security Council on the question of strengthening the security of non-nuclear-weapon States,

Recalling their obligations to refrain, in their mutual relations, from the threat or use of force against the territorial integrity or political

independence of any State, or in any other manner inconsistent with the purposes and principles of the Charter of the United Nations,

Have agreed as follows:

I. DEFINITIONS

The terms "nuclear-weapon States" and "non-nuclear-weapon States" referred to in the present protocol refer to the definitions given in the Treaty on Non-Proliferation of Nuclear Weapons.

II. BASIC OBLIGATIONS

1. In accordance with Article 2, paragraph 4, of the Charter of the United Nations, each State party to the Treaty undertakes to refrain in its international relations from the threat or use of force against another State party, its territorial integrity and its political independence.

2. The nuclear-weapon States undertake not to use or threaten to use nuclear weapons against non-nuclear-weapon States parties to the Treaty.

III. MEASURES IN CASE OF NON-COMPLIANCE

1. Any State party that has reason to believe that there has been or is likely to be a breach of the obligations of States parties arising from Article II of this instrument may request an urgent meeting of a Conference of States parties to the Treaty on the Non-Proliferation of Nuclear Weapons and/or that of the Security Council under Chapter VII of the Charter of the United Nations, with a view to preventing such a breach, or redressing the situation arising therefrom.

2. In the case of a nuclear aggression or a threat of such an aggression against a non-nuclear-weapon State, the Conference of States Parties should provide to it the necessary help and assistance.

IV. DURATION

The duration of the present protocol shall be the same as that of the Treaty on the Non-Proliferation of Nuclear Weapons, to which the protocol is an annex.

V. ENTRY INTO FORCE

The present protocol shall enter into force for the States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, which have ratified it, on the date of the deposit of their respective instrument of ratification with the depositary Governments of the Treaty.

Notes

[a] 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, Part I (NPT/CONF.1995/32 (Part I)), annex.